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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JONATHAN MCKINNEY,

Plaintiff,

Civil No. 08-366CL

v.

ORDER

WASHINGTON COUNTY, et al.,

Defendants.

CLARKE, Magistrate Judge.

Plaintiff filed a complaint under 42 U.S.C. § 1983 alleging violations his rights under the Eighth Amendment while he was incarcerated in Washington County. Plaintiff named as defendants "Washington County" and "Prison Health Services."

By Order (#11) entered December 10, 2008, the court held that plaintiff's claim that he was denied previously prescribed medication for "Bi-polar and depression" arguably alleged a claim for pleading purposes and ordered that a waiver of service packet be sent to counsel for defendant.

A request for waiver of service by "Washington County"

was sent to Washington County Counsel.

On April 27, 2009, Washington County Counsel returned a waiver of service for Washington County. The form stated: "I do not represent and therefore decline to waiver service on behalf of defendant **Prison Health Services.**" Waiver of Service Form (#13).

The normal protocol when a request for waiver of service is declined is that the court orders service by the U.S. Marshal. In this case no service was ordered on "Prison Health Services."

Defendant Washington County's Memorandum in Support of its Motion to Dismiss (#16) states: "Prison Health Services, Inc. ("PHS" is a private corporation which contracts with Washington County to provide health Services at Washington County Jail."

Under these circumstances, Prison Health Services should be served as a defendant.

Therefore, IT IS that the Clerk shall issue process as to Prison Health Services, Inc. Service of the summons and complaint shall be made by the United States Marshal's Service.

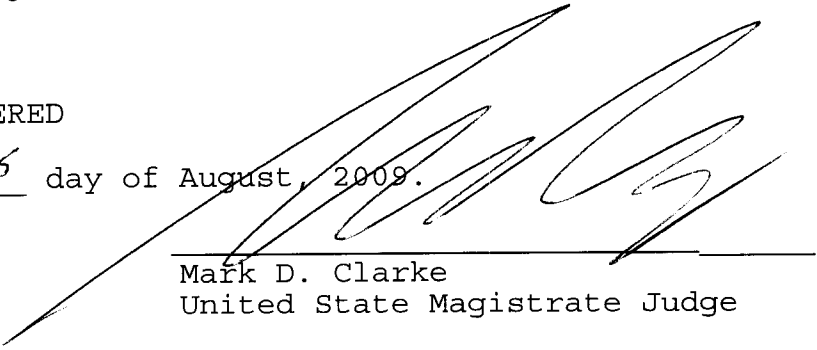
Plaintiff is advised that he is responsible for completing and submitting to the Clerk's Office an original and one copy of the summons for issuance by the Clerk, and completing and submitting instructions for service of process on a Form USM285 to the Clerk's Office. The Clerk is

requested to provide plaintiff with the appropriate forms.

Defendant Washington County's Motion to Dismiss (#15) is denied without prejudice.

IT IS SO ORDERED

DATED this 25 day of August, 2009.



Mark D. Clarke
United State Magistrate Judge